

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of       )  
  )  
SAMUEL R. AND LORRAINE L. GAYLORD )

For Appellants: Samuel R. Gaylord,  
  in pro. per.

For Respondent: **John R. Akin**  
  Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Samuel R. and Lorraine L. Gaylord against a **proposed assessment** of additional personal income tax in the amount of \$491.88 for the year 1976.

Appeal of Samuel R. and Lorraine L. Gaylord

Samuel R. and Lorraine L. Gaylord, formerly Michigan residents, became California residents on May 2, 1976. They filed a California part-year resident return for 1976 which reported **\$32,417.35** in total wages and allocated **\$21,611.57** (2/3 of that total) as California income. The W-2 form for 1976 issued by appellant-husband's employer reported the same **\$32,417.35** in total wages but allocated **\$23,494.27** as California income.

Respondent issued a **Notice** of Proposed Assessment which listed the **\$1,882.70** difference between the California income reported by appellants and their California income reported by the husband's employer as "additional wages" taxable by California. Appellants filed a timely appeal protesting that there were no "additional wages."

The determination of a deficiency by a taxing authority is presumed to be correct, and the burden is upon the taxpayer to prove that the amount of income to be taxed is an amount less than that on which the deficiency assessment was based. (Kenney v. Commissioner, 111 F.2d 374 (5th Cir. 1940); Appeal of John and Codelle Perez, Cal. St. Bd. of Equal., Feb. 16, 1971.)

In this case, respondent simply attributed the amount of 1976 income allocated to California on the **payroll records of appellant-husband's employer to the appellants**. Appellants have not adduced any evidence to demonstrate that the employer's allocation was incorrect. Under the circumstances, respondent's determination must be sustained.

